

## TO: Special Permit Applicants and their Representatives, and Members of the Public



This is intended to provide a brief summary of the Special Permit process. If you want more information or have any questions, please contact the Planning Department at 617-796-1120, or visit the City's website at <http://www.ci.newton.ma.us/gov/planning/current/sppermits/default.asp>.

### Special Permits

A Special Permit is permission to construct, modify or add to a building or establish a use that is not allowed by right under the Zoning Ordinances. It usually consists of a set of plans that are accompanied by a list of findings as to the existence of criteria specified in the Zoning Ordinances and conditions required to mitigate the impact of the project. Special Permits may only be issued if the use of the site will be in harmony with the general purpose and intent of the Zoning Ordinances, shall be subject to the general or specific provisions set forth therein, and may impose conditions, safeguards or limitations on time or use.

Approval of a Special Permit requires at least sixteen (16) votes or two-thirds (2/3) of the Board of Aldermen, which is the Special Permit Granting Authority in Newton. A Special Permit Decision is limited to the standards and criteria set forth in the Zoning Ordinances. When granting a Special Permit, the Board of Aldermen must make an affirmative finding as to the existence of each criteria required by the Zoning Ordinances for granting a Special Permit in its Decision. While the Board of Aldermen may not refuse to issue a permit for reasons unrelated to the standards in the ordinance, it does have discretion to deny a Special Permit for any permissible reason. Among other things, the Board of Aldermen may **not** base its Decision on the reputation or character of an applicant.

The Board of Aldermen has up to ninety (90) days to vote on a Special Permit application after the Public Hearing is closed, although the time to act may be extended by written agreement with the applicant.

### Public Hearing

A Notice of a Public Hearing on a Special Permit includes the name of the applicant, the description and location of the property, the date, time and place of the Public Hearing, the subject matter of the hearing, and the nature of the relief requested. The Notice must be published in the newspaper, posted in City Hall, and mailed to the applicant, immediate abutters, owners of land directly opposite on any public or private street or way, and abutters to abutters within three hundred (300) feet of the property. The Board of Aldermen's Rules also require that Notice of the Public Hearing is posted on a sign located at the site.

Public Hearings are conducted by the Land Use Committee, which is comprised of eight (8) aldermen, one from each ward. At the Public Hearing, the applicant may present its application for a Special Permit and members of the public may speak about it. The Planning Department also provides the Land Use Committee with a written report on each application prior to the Public Hearing. Plans, reports and other documents relating to each Special Permit application are available to the public at the Clerk's office and are posted on the City website at <http://www.ci.newton.ma.us/gov/aldermen/sppermits.asp>.

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**Applicants and their representatives are allowed up to twenty (20) minutes to present their applications for a Special Permit.** Presentations should include a brief description of the project, the relief that is being requested, and the reasons the applicant believes that a Special Permit should be granted. At the conclusion of each applicant's presentation, the Aldermen will be given an opportunity to ask questions or request additional relevant information. **Members of the public, their representatives and attorneys, and organizations or groups who wish to speak are allowed three (3) minutes each to address the reasons they support, oppose or have concerns about the Special Permit application.** Additional time may be allowed only with permission from the Chairman of the Land Use Committee, within his or her sole discretion. **Please notify the Chairman in advance if you want additional time.**

In order to allow everyone who wants to speak an opportunity to do so, please be brief and concise, and confine your remarks to issues that are relevant to the Special Permit application and not duplicative of those given by previous speakers. Be courteous and respectful of other speakers. Members of the public are also encouraged to submit written comments regarding a Special Permit application at any time to the Clerk's office. The email address of the Committee Clerk, Linda Finucane, is [lfincane@newtonma.gov](mailto:lfincane@newtonma.gov).

### **Working Session**

After the Public Hearing is closed, the Special Permit application is scheduled for a Working Session where the Land Use Committee will review the application, and the applicant may submit responses to any outstanding issues. **Unlike the Public Hearing, applicants and their representatives, and members of the public, are not allowed to speak at the Working Session without permission from the Chairman of the Land Use Committee, acting in his or her discretion.** The Land Use Committee may also schedule a Site Visit. Whenever possible, non-major projects may be taken up in Working Session on the same night as the Public Hearing. After one or more Working Sessions, the Land Use Committee will vote on whether to recommend approval to the full Board of Aldermen.

In the Working Session, the Land Use Committee will look to the specific criteria in the Zoning Ordinances, and assess the application's consistency with the goals and objectives of City's Comprehensive Plan. The Land Use Committee may consider "by-right" alternatives and whether unusual site features limit the ability to build a by-right project on the site, which may include environmental considerations (such as wetlands), significant vegetation or forestation, unusual topography or lot shape, historic context, accessibility by various modes of transportation, archaeology, drainage, emergency access, or related public safety issues. In general, the Land Use Committee will want to know whether the proposed project will be a good neighbor, fit in with its setting, and enhance the community's quality of life.

### **Decision**

After the Land Use Committee has voted to recommend whether to approve an application, the Board of Aldermen will vote to grant or deny a Special Permit at its next regularly scheduled meeting. The Decision is then filed with the Clerk. After the appeal period, if no appeals are filed, the applicant may record the Decision with the Registry of Deeds and exercise the Special Permit. Approvals must be exercised within a year, but may be extended for a second year with approval from the Board of Aldermen.

Respectfully submitted,

Ted Hess-Mahan, Chairman of the Land Use Committee

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617-796-1210 [www.ci.newton.ma.us/aldermen](http://www.ci.newton.ma.us/aldermen)